Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
Carrier Current Systems, Including Broadband over Power Line Systems	)	ET Docket No. 03-104
Amendment of Part 15 Regarding New Requirements and Measurement Guidelines for Access Broadband over Power Line Systems	)	ET Docket No. 04-37

COMMENTS OF CINERGY CORP.

Pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. § 1.415, Cinergy Corp. ("Cinergy") files these comments in response to the Commission's Notice of Proposed Rule Making released February 23, 2004 in the above captioned proceeding ("Notice").[1]

I. INTRODUCTION

Cinergy is the parent corporation of The Cincinnati Gas & Electric Company, PSI Energy, Inc. and The Union Light, Heat and Power Company. Together, Cinergy's operating utilities serve approximately 1.5 million electric, and 500,000 gas customers in three states.

Cinergy's subsidiary, Cinergy Broadband, LLC, together with its joint venture partner, Current Communications Group, recently announced the nation's first commercial deployment over the facilities of an investor-owned utility of Access Broadband over Power Line ("BPL")

[1] *New Requirements and Measurement Guidelines for Access Broadband over Power Line Systems*, , ET Docket No. 04-37, FCC 04-29 (released Feb. 23, 2004).

service. Cinergy Broadband and Current launched their service in the Cincinnati, Ohio area after a successful test of the technology in that city, and plan to expand their BPL offerings to Kentucky and Indiana. The venture will offer internet access service at speeds of more than 3 MBps, and will be bundled with voice over IP. Cinergy Broadband and Current also have formed a second joint venture to pursue deployment of BPL by municipal-owned power companies and rural electric cooperatives across the nation. "Because power lines reach virtually every home, school, and business in the United States, Access BPL technology could play an important role in providing high-speed Internet and broadband services to rural and remote areas of the country." Notice ¶30.

The Notice correctly observes (¶30) that BPL can potentially "improve the safety and efficiency of the electric power distribution system and also further our national homeland security by protecting this vital element of the U.S. critical infrastructure." Cinergy anticipates that BPL will enable a variety of Enhanced Power Distribution ("EPDS") applications, including automated outage detection and restoration confirmation, remote monitoring and operation of switches and transformers, more efficient demand-side management programs, and power quality monitoring to detect faulty components *before* they fail.

Cinergy strongly supports the Commission's approach to BPL. Recognizing that BPL is a nascent, but extremely promising technology, the Notice declines to impose onerous regulatory burdens or to overreact to unsubstantiated fears of potential interference with other spectrum users. Rather, the Commission correctly resolves to "proceed cautiously," without unnecessarily impeding the development of this "new method for delivery of broadband services to residential, institutional, and commercial users" that could "provide new competition to existing broadband services." (Notice, ¶¶30, 33). As President Bush urged in an April 26, 2004 speech, the

Commission has sought to "clear regulatory hurdles" and to establish "technical standards to make possible new broadband technologies, such as the use of high-speed communication directly over power lines."[2]

II. ANY DATABASE OF ACCESS BPL EQUIPMENT INSTALLATIONS SHOULD NOT BE PUBLICLY ACCESSIBLE

Cinergy urges that the Notice's proposals be modified in one crucial respect: The Notice proposes (¶43) "to establish a publicly accessible database for Access BPL information" that would provide "information on the location of the [BPL equipment] installation, the type of modulation used and the frequency bands of operation." Cinergy does not oppose the creation of such a database, *provided that* it is maintained by a trusted third party rather than being made available to the public.

A map of BPL equipment locations would, in essence, be a map of a utility's electric infrastructure, including indicators of the location of transformers and other equipment. Electric distribution systems are, of course, Critical Infrastructure, and protection of such systems are an important facet of homeland security efforts. Making information concerning BPL equipment locations public is not necessary to achieve the Commission's purpose, and there is accordingly no sound reason to incur the attendant security risks. A third party administrator could help resolve interference complaints just as effectively as a public database, and could do so by providing targeted information in response to specific inquiries.

Creating a publicly accessible database also would raise significant competitive concerns, as the Notice implicitly acknowledges by asking (¶43) "how any concerns regarding the

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[2] President George W. Bush, Remarks at the American Association of Community Colleges Annual Convention (April 26, 2004) (available at: http://www.whitehouse.gov/news/releases/2004/04/20040426-6.html).

proprietary nature of that data can be addressed." As a nascent technology, BPL will in many cases seek to compete in a local market in which DSL and cable Internet service providers already have established a strong presence. A publicly accessible database would provide entrenched broadband providers with free competitive intelligence about a BPL provider's network build-out, and would permit them to target marketing and promotion efforts in an attempt to pre-empt a BPL provider's offers.

Finally, a publicly accessible database could invite meritless interference complaints. Spectrum users who believe they are experiencing interference predictably would target BPL equipment, as information about those potential sources of interference would be more readily available than others. By requiring spectrum users to submit specific inquiries to a third party database administrator, the Commission would help ensure that interference complaints grow out of reasonable investigation, rather than simply attempts to eliminate the easiest suspect to identify.

CONCLUSION

Cinergy commends the Commission for its measured approach to BPL, and urges a continued policy of allowing this nascent technology to develop free of unnecessary regulatory impediments.

Respectfully submitted,

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